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NOVARTIS VACCINES AND DIAGNOSTICS INC.
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In re Application of :
Grandi et al. :
Application No. 10/561,236 :
PCT No.: PCT/US04/20491 :
Int. Filing Date: 25 June 2004 : COMMUNICATION
Priority Date: 26 June 2003 :
Atty. Docket No.: 002441.00183 :
For: Immunogenic Compositions :
For Chlamydia Trachomatis :

This is in response to the declaration of the inventors filed on 14 August 2007, which is being treated under 37 CFR 1.42.

BACKGROUND

This international application was filed on 25 June 2004, claimed an earliest priority date of 26 June 2003, and designated the U.S. The 30 month time period for paying the basic national fee in the United States expired at midnight on 26 December 2005. Applicants filed, *inter alia*, the basic national fee on 19 December 2005.

On 22 January 2007, a Notice of Missing Requirements (Form PCT/DO/EO/905) was mailed to applicant, requiring the submission of an oath or declaration in compliance with 37 CFR 1.497(a) and (b) and a surcharge under 37 CFR 1.492(h).

DISCUSSION

Review of the declaration of the inventors filed on 14 August 2007 reveals that inventor Giulio Ratti is indicated to be "deceased." 37 CFR 1.42 provides in part that

In case of the death of the inventor, the legal representative (executor, administrator, etc.) of the deceased inventor may make the necessary oath or declaration, and apply for and obtain the patent.

Meanwhile, 37 CFR 1.497(b)(2), as amended effective 08 September 2000, provides that

If the person making the oath or declaration is not the inventor (§§ 1.42, 1.43 or 1.47), the oath or declaration shall state the relationship of the person to the inventor, and, upon information and belief, the facts which the inventor would have been required to state. If the person signing the oath or declaration is the legal representative of a deceased inventor, the oath or declaration shall also state that the person is a legal representative and the citizenship, residence and mailing address of the legal representative.

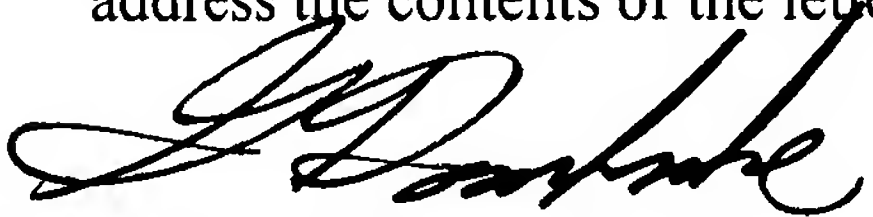
Further examination of the declaration filed on 14 August 2007 reveals that it is directed to the instant national stage application number, but also to a different international application number (PCT/US2005/006588); since the application to which it is directed is ambiguous, the declaration is defective. The declaration is also defective in that it nominates Alessandra Bonci, rather than Alessandro Bonci named in the published international application. The document has been signed in the capacity of "legal representative" by an individual whose name is not clearly legible. The declaration appears to provide citizenship, residence and mailing address for both the legal representative and Mr. Ratti (the information provided for the legal representative is the same as that provided for Mr. Ratti). As the declaration is defective, it would not be appropriate to accept it under 37 CFR 1.42 at this time.

CONCLUSION

The declaration is **NOT ACCEPTED** under 37 CFR 1.42, without prejudice.

If reconsideration on the merits of this matter is desired, a proper response must be filed within **TWO (2) MONTHS** from the mail date of this decision. Any reconsideration request should include a cover letter entitled "Renewed Submission Under 37 CFR 1.42." Extensions of time may be obtained under 37 CFR 1.136(a). Failure to timely file a proper response will result in **ABANDONMENT**.

Please direct any further correspondence with respect to this matter to the Assistant Commissioner for Patents, Mail Stop PCT, P.O. Box 1450, Alexandria, VA 22313-1450, and address the contents of the letter to the attention of the Office of PCT Legal Administration.



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